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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 161/Lab./AIL/T/2017,
Puducherry, dated 23rd October 2017)

NOTIFICATION

Whereas, the award in I.D.(L) No. 21/2013, dated 21-9-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of M/s. Karaikal Port (P) Ltd., MARG, T.R. Pattinam, Karaikal and Thiru S. Jeganathan, Karaikal over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL -CUM-
LABOUR COURT AT PUDUCHERRY**

*Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.*

Thursday, the 21st day of September 2017.

I.D. (L) No. 21/2013

S. Jeganathan,
S/o. Susai Marianathan,
No. 16, Housing Board Colony,
Nehru Nagar, Karaikal. . . Petitioner

Versus

The Managing Director,
M/s. Karaikal Port (P) Limited, MARG,
Keezavanjore, T.R. Pattinam,
Karaikal. . . Respondent

This industrial dispute coming on 08-09-2017 before me for final hearing in the presence of Thiru K. Velmurugan, Counsel for the petitioner, Thiruvalargal K. Babu and C. Arivajagne, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred by the Government as per the G.O. Rt. No. 34/AI/Lab./J/2013, dated 11-03-2013 for adjudicating the following:-

(i) Whether the dispute raised by the petitioner Thiru S. Jeganathan against the management of M/s. Karaikal Port (P) Limited, MARG, Karaikal over Non-employment is justified or not? If justified, what relief the petitioner is entitled to ?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The averments in the claim statement of the petitioner, in brief are as follows :

The petitioner stated that he was joined in the respondent management as Weigh Bridge Supervisor on 08-10-2007 as a trainee for a period of 6 months and on seeing his hard work and sincerity, the respondent management before the completion of the said training period had issued him the offer letter on 29-02-2008 and accepted the services of the petitioner as probationer and his services were confirmed by the respondent management *vide* letter, dated 01-09-2008 for the post of Executive Projects and he was sincere and dedicated to his job and has discharged his duties in a honest manner without any sort of black-mark in the respondent management and by way of appreciating his services, the respondent management has given periodical increments and further stated that the respondent management has grossly violated the labour welfare legislations and also violated the provisions of the Factories Act, 1948 and since, there is no trade union functioning in the respondent management, the petitioner had pointed out the said lacunas to the respondent management and by an act of victimisation, the respondent management suspended his services on 02-02-2011 stating that he has not wear the helmet while he was riding in the motorcycle as a pillion-rider inside the respondent factory premises and further stated that only by intervention of the Labour Officer, Karaikal, the management withdrawn the order of suspension and reinstated into the service and he further stated that at the time of re-joining in the respondent company, the respondent officials compelled him to sign in the blank papers and also give apology letters, since he is not in a dominate position to go against the words of his superior officials, he has yielded to the illegal and unlawful demands of the respondent officials solely for the purpose of protecting his employment and despite his several requests the respondent management has not provided

the official e-mail and official Sim card to him after his re-joining and the respondent management again by an act of victimisation refused employment with effect from 12-07-2011 and when he questioned regarding his employment, Mr. Ameer, Deputy Manager (HR) directed the petitioner to meet Deputy General Manager Mr. Senthil at Head Office, Chennai and that he was not allowed to meet the said DGM Mr. Senthil and it was explained to the management but, the Senior Management Personnel Mr. Amir used unparliamentary words in front of other workers and not allowed the petitioner for employment and for which he was mentally affected and regarding his employment he tried many times to meet the DGM Mr. Senthil but, he never allowed him to meet the petitioner and therefore, all his efforts ended in vain and further stated that the refusal of employment by the respondent is mainly to terminate his services at any cost since he is bringing in light the gross labour violations of the respondent management and no principles of natural justice were followed by the respondent management in terminating his service and the act of the respondent management in terminating the services of the petitioner is illegal, unlawful and arbitrary and against the established principles of law and prayed this Court to set aside the termination order, dated 26-07-2011 issued by the respondent as *null and void*, illegal, improper and consequently reinstate him in his original employment with full backwages and all attendant benefits and also award compensation of ₹ 5,00,000 for the illegal termination.

3. The brief averments in the counter filed by the respondent are as follows :

The respondent management stated that the petitioner was the management executive and employed as Weigh Bridge Supervisor and therefore, he will not be covered under the definition of 'workman' under the Industrial Disputes Act and therefore, he has no *locus standi* to raise any industrial or individual dispute under this Act and further stated that the petitioner joined as Weigh Bridge Supervisor on 01-03-2008 and promoted as Executive Projects in the grade of Junior Management 2 and he was entrusted with mainly managerial and administrative services, duties and responsibilities towards the management and therefore, the petitioner has no right to raise an industrial dispute and seek his remedy as the "workman" as envisaged by section 2(s) of the Industrial Disputes Act, 1947 and further stated that the petitioner has tendered his resignation voluntarily *vide* official e-mail, dated 12-07-2011 and

his resignation was duly accepted by the management and therefore, he was relieved from his duties on the closing hours of 26-07-2011 and based on his resignation the petitioner was fully settled all his dues on 26-07-2011 and relieved from all his duties and therefore, raising such an instant dispute *vide* representation, dated 09-04-2012 was nothing but a mere after-thought and he has no *locus standi* to raise such dispute under this Act after his resignation has been accepted and he was relieved from all his responsibilities and further stated that the management never threatened their executive officials nor their workmen at any time and that the petitioner indulged such activities on so many occasions and thereafter, expressed by written apologies and his past service records reveals that his conduct has not been satisfactory and that he had indulged in misappropriation, violent and unruly behaviour, indiscipline and spreading of false allegations against the management and lowering the reputation of the senior management and the allegation made by the petitioner against the respondent management is utterly false and prayed to dismiss the claim petition.

4. In the course of enquiry on the side of the petitioner PW1 and PW2 was examined and Ex.P1 to Ex.P2 were marked and on the side of the respondent RW1 was examined and Ex.R1 to Ex.R39 were marked.

5. The point for consideration is:

Whether the dispute raised by the petitioner against the respondent management over non-employment is justified or not and if justified what relief the petitioner is entitled to ?

6. Both sides are heard. The submission of both the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On perusal of the pleadings it is clear to this Court that following facts are admitted by either sides that the petitioner was working at the respondent establishment and initially he was posted as a trainee in the year 2007 for a period of 6 months and thereafter, he was served as a probationer and thereafter, his service was confirmed by the respondent management and on 02-02-2011, the petitioner was suspended from service by the respondent management for the reason that petitioner has not worn the helmet while he was riding in the motorcycle as a pillion rider inside the premises of the respondent establishment and the petitioner has taken the matter to the Labour Officer and thereafter, the respondent management has revoked the suspension order and re-employed the petitioner

into service and subsequently the problem arises between the petitioner workman and the respondent management and thereafter, the petitioner raised the industrial dispute before the Conciliation Officer and on failure of the Conciliation the Government has referred this matter to this Tribunal.

7. It is an admitted fact that petitioner workman has not been terminated from service after conducting the domestic enquiry. As he is a permanent worker he has to be removed only after the domestic enquiry. However, if, he resigned from the job no such domestic enquiry is required for the non-employment of the petitioner workman.

8. In order to prove the case of the petitioner PW1 and PW2 was examined and Ex.P1 to Ex.P8 were marked. Ex.P1 is the copy of the Appointment letter of the petitioner as Weigh Bridge Supervisor issued by the respondent. Ex.P2 is the copy of the letter issued by the respondent company confirming the services of the petitioner. Ex.P3 is the copy of the promotion letter of the petitioner as Executive Projects issued by the respondent. Ex.P4 is the copy of the letter issued by the respondent company to the petitioner. Ex.P5 is the copy of the letter sent by the petitioner to the Inspector, Labour Welfare, Karaikal. Ex.P6 is the copy of the letter sent by the petitioner to the Labour Officer, Karaikal. Ex.P7 is the copy of the reply given by the respondent company to the Conciliation Officer (Labour), Karaikal. Ex.P8 is the copy of the failure report submitted by the Conciliation Officer to the Government of Puducherry,

9. From the above documents Ex.P1 to Ex.P3 would reveal the fact that the petitioner has been appointed as a Weigh Bridge Supervisor on 08-10-2007 and on 29-02-2008 the letter was issued to the petitioner appreciating his service by the respondent establishment and he was promoted as Executive-Projects based on his performance and company's confidence on the petitioner. Ex.P4 would reveal the fact that the respondent management has appreciated the service of the petitioner. Ex.P5 would reveal the fact that the petitioner has made complaint before the Labour Officer, Karaikal stating various allegations. Ex.P6 - the complaint letter would reveal the fact that the petitioner again has raised the industrial dispute against the respondent management for his non-employment before the Labour Officer stating that the respondent management has victimised him and has suspended him from service and thereby caused mental agony and the petitioner has made several complaints against the respondent management stating that his

employment was refused by the respondent management and asked the petitioner to attend job only after he met with Deputy General Manager one Senthil but, he was not permitted to meet him. Ex.P7 is the reply given by the respondent management would evident that on 15-10-2012 the respondent management submitted the reply to the Conciliation Officer wherein, they have stated that petitioner Jeganathan is not a workman under the Industrial Disputes Act and he had joined in the establishment as Weigh Bridge Supervisor on 01-03-2008 and subsequently, he was promoted as Junior management 2 and rendering mainly managerial and administrative services and that therefore, he is not the workman and it is also stated by the management in the reply that the petitioner Jeganathan has tendered his resignation from service voluntarily *vide* his Official e-mail, dated 12-07-2011 and accordingly, due acceptance of resignation he had been relieved of his duties on the closing hours of 26-07-2011 and his monetary benefits have been settled on the same day and that therefore, the representation made by the petitioner was nothing but a mere afterthought.

10. Further, it is noticed from Ex.P8 that this petitioner has raised the industrial dispute before the Labour Officer on 04-04-2012 by giving a petition for his non-employment against the management alleging that only to victimise the petitioner, the respondent management has refused his employment with effect from 12-07-2011 and in the conciliation proceedings the respondent management has filed a reply on 15-10-2012 alleging that the petitioner Jeganathan was the management executive and employed as Weigh Bridge Supervisor and he would not be covered under the Industrial Disputes Act and further, the management has stated that the petitioner has tendered his resignation voluntarily *vide* e-mail on 12-07-2011 and his resignation was duly accepted by the management and therefore, he was relieved from his duties on the closing hours of 26-07-2011 and on which date the petitioner was settled all his dues by the respondent management and relieved from his duties. From these documents and evidence of PW1 and PW2 it is clear that the petitioner has established the fact that he had served at the respondent establishment from the year 2007 and his work was confirmed by the respondent management and subsequently he was also promoted based on his performance and the petitioner has made some charter of demands before the Inspector of Labour Officer and also made complaint against the respondent management on 15-03-2011 under Ex.P5

and subsequently he was suspended from service and thereafter without giving written order his employment was refused by the respondent management stating that the petitioner has voluntarily resigned from service through e-mail alleged to have been sent by the petitioner on 12-07-2011.

11. On the other hand, in order to prove the case of the respondent, RW1 was examined and Ex.R1 to Ex.R39 were marked Ex.R1(series) is the Invoice-Receipts regarding issue of diesel to the respondent management (5 Nos.). Ex.R2 is the e-mail regarding diesel on hand for the month of April, 2009. Ex.R3 is the work allotment given by the respondent management on 27-05-2011 to the petitioner. Ex.R4 is the copy of the e-mail sent by the petitioner on 03-07-2008. Ex.R5 is the copy of the Charge-sheet *cum* order of suspension given by the respondent to the petitioner on 03-02-2011. Ex.R6 is the copy of the letter given by the petitioner to the Labour Welfare Officer on 15-03-2011. Ex.R7 is the copy of the letter given by the petitioner to the Labour Welfare Officer on 31-02-2011. Ex.R8 is the copy of the FIR against the petitioner on 13-06-2013. Ex.R9 is the copy of the letter given by the petitioner to the Municipality Office, Thirumalairayanpattinam on 04-09-2013. Ex.R11 is the copy of the letter given by the petitioner to the Municipality Office, Thirumalairayanpattinam on 11-10-2013. Ex.R11 is the copy of the letter given by the petitioner to the Home Ministry, Department on 07-12-2013. Ex.R12 is the copy of the letter given by the petitioner to the Home Ministry, Department on 07-12-2013. Ex.R13 Proceedings of conciliation. Ex.R14 is the copy of the offer letter issued to the petitioner on 29-02-2008. Ex.R15 is the copy of the Personal Data Form of Petitioner on 01-03-2008. Ex.R16 is the copy of the Appointment letter of petitioner as "Weigh Bridge Supervisor" on 01-03-2008. Ex.R17 is the copy of the Joining report of petitioner as "Weigh Bridge Supervisor", dated 01-03-2008. Ex.R18 is the copy of the Confirmation letter issued to the petitioner on 01-09-2008. Ex.R19 is the copy of the Petitioner's Confirmation Evaluation Form, dated 02-09-2008. Ex.R20 is the copy of the e-mail extract of Petitioner's resignation, dated 12-07-2011. Ex.R21 is the copy of the monthly status report of petitioner for the period from 01-06-2011 to 31-08-2011. Ex.R22 is the copy of the full and final settlement statement of petitioner, dated 12-07-2011. Ex.R23 is the copy of the loan application form of petitioner, dated 25-10-2010. Ex.R24 is the copy of the office letter by respondent to Indian Bank Branch Manager requesting statement of Accounts of Petitioner, dated 16-01-2014. Ex.R25

is the copy of Statement of Accounts of petitioner issued by Indian Bank, Karaikal for the period from 01-04-2011 to 30-09-2011. Ex.R26 is the copy of the complaint letter of D. Kumar, Transport Driver, dated 03-08-2009. Ex.R27 is the copy of the apology letter by petitioner on 04-08-2009. Ex.R28 is the copy of the apology letter by petitioner on 08-02-2011. Ex.R29 is the copy of the Apology letter by petitioner on 31-03-2011. Ex.R30 is the copy of the Extract of defamatory publication by petitioner in face book, dated 16-10-2012. Ex.R31 is the copy of the complaint letter of S. Senthilkumar, DGM-HR, dated 19-10-2012. Ex.R32 is the copy of the Extract of defamatory publication by petitioner in face book, dated 09-11-2012. Ex.R33 is the copy of the e-mail extract with defamatory publication by petitioner in face book, dated 22-01-2013. Ex.R34 is the copy of the Extract of threatening by petitioner through e-mail, dated 02-03-2013. Ex.R35 is the copy of the Extract of threatening by petitioner through e-mail, dated 03-03-2013. Ex.R36 is the copy of the failure report issued by the Conciliation Officer, dated 18-01-2013. Ex.R37 is the copy of the Notification issued by Government of Puducherry, dated 11-03-2013. Ex.R38 is the copy of the e-statement Account of respondent issued by Indian Bank, Karaikal, dated 30-03-2015. Ex.R39 is the copy of the order of transfer to BECL Project site given by the respondent to Mr. Ganesan on 10-04-2012.

12. The main contention of the petitioner is that though the respondent management after revoking the suspension order re-employed him in service and though on paper he was permitted to work in the respondent management, the respondent in reality did not provide him any work in the Office area and while so on 12-07-2011, when the petitioner was reported to job, he was refused employment by Mr. Ameer, Deputy Manager (HR) and while he asked the reason for his non-employment the petitioner was asked to meet Mr. Senthil, DGM (HR) at Chennai and he went to met him he was asked to wait all along the day and in the evening he was told that the said Senthil is out of station and was asked to come after a month and thereby, the respondent management has refused employment to the petitioner and though he had made several requests he was not allowed to enter into the respondent establishment.

13. Though the respondent management has admitted all other facts stated above they contended that petitioner himself has sent a resignation under an e-mail to the respondent establishment and therefore,

the non-employment is only due to the reason that the petitioner has resigned his job from the respondent establishment and he was never terminated from service by the respondent establishment at any point of time and he himself has not reported to duty and he has only sent a resignation under an e-mail. Therefore, it is just and necessary to decide whether the petitioner has resigned his job or the petitioner was terminated by the respondent management only to victimise the petitioner who has raised some dispute against the respondent management before the Labour Officer.

14. On this aspect, the evidence of both sides and exhibits marked by them are carefully considered. The evidence of RW1 in his cross examination runs as follows :

“கடந்த 02-02-2011 அன்று மனுதாரர் தலைக்கவசம் அணியவில்லை என்று எதிர்மனுதாரரால் குற்றப்பத்திரிக்கை கொடுக்கப்பட்டு தற்காலிக பணிநீக்கம் செய்யப்பட்டார் என்றால் சரிதான். இது தொடர்பாக மனுதாரர் மீது எந்த வித முன் விசாரணையும் நடத்தவில்லை. இந்த சம்பவம் தொடர்பாக மனுதாரர் தொழிலாளர் நல சமரச அதிகாரியிடம் கடிதம் கொடுத்து மீண்டும் பணியில் சேர்க்கப்பட்டார் என்றால் சரிதான். வேலைக்கு மீண்டும் சேர்க்கும் போது மன்னிப்பு கடிதம் மட்டும் தான் கொடுத்தார். மனுதாரர் மன்னிப்பு கடிதம் கொடுத்த போது நான் இல்லை. நான் அவர் கடிதம் கொடுக்கும் போது இல்லாவிட்டாலும் அவர் கொடுத்த கடிதம் எது என்று எனக்கு தெரியும். Safe violation மன்னிப்பு கடிதம் கொடுத்தார்..... 12-07-2011 இமையில் மூலம் அவர் தன்னுடைய ராஜினாமா கடிதத்தைக் கொடுத்தார். எங்கள் நிறுவனத்தில் பணியாளர்களுக்கு தனியாக இமையில் முகவரி கொடுப்போம் என்றால் சரிதான். மனுதாரருக்கு தனியாக அலுவலக இமையில் முகவரி கொடுக்கவில்லை. அவர் மையில் முகவரி எனக்கு தெரியும். Jaganathan MCL 387 @ yahoo.in ஆகும். அவர் மூன்று மையில் முகவரி கைவத்திருந்தார் அதில் தான் அவர் கடிதங்களை கொடுத்திருந்தார். அந்த கடிதங்களையும் நான் நீதிமன்றத்தில் தாக்கல் செய்திருக்கிறேன். நான் சொல்வது போல் மனுதாரர் எந்த மையில் முகவரியிலும் ராஜினாமா கடிதம் அனுப்பவில்லை என்று மனுதாரர் தரப்பில் சொன்னால் சரியல்ல. நாங்களே மையில் முகவரி தயார் செய்து ராஜினாமா கடிதம் கொடுத்தோம் என்றால் சரியல்ல.....”

From the evidence of respondent management RW1, it is clear that the petitioner has been suspended from service for the mere reason that he has not weared the helmet in the factory premises without any enquiry and he has been charge-sheeted and suspension order was passed against the petitioner and for which the petitioner has made a complaint to the District Collector and the Labour Officer and thereafter, his suspension was revoked and he was re-employed by the respondent management and no official I.D has been given to the petitioner.

15. To establish the contention that petitioner has voluntarily resigned from service on 12-07-2011 by sending e-mail for his resignation, the respondent management has exhibited Ex.R1 to Ex.R39 out of which the alleged copy of the e-mail exhibited as Ex.R20 is the vital document. Only on the basis of the said document, it is alleged by the respondent management that petitioner has resigned his job from the respondent establishment resignation of petitioner was accepted and they have settled all the dues to the petitioner on 26-07-2011 and they did not terminate the petitioner at any point of time. Hence, it is to be decided whether the said document Ex.R20 is a genuine e-mail sent by the petitioner to the respondent management for the purpose of resignation.

16. It is an admitted fact that there is a dispute between the petitioner and the respondent management and earlierly he was suspended from service on 02-02-2011 by issuing a memo to him for the charge that he has not weared helmet in the premises of the respondent establishment while he was riding in the motorcycle as a pillion rider and further that the petitioner has accepted that he submitted a complaint before the Labour Officer against the management on 15-03-2011 regarding the unsafety measures of the industry and unfair labour practice committed by the respondent management. The said complaint letter was exhibited as Ex.P5 and it is not denied by the respondent management that the petitioner has made such a complaint. In such circumstances, when the complaint is pending before the Conciliation Officer it is alleged by the respondent management that petitioner has voluntarily sent an e-mail to the Human Resource Department for his resignation on 12-07-2011. The said copy of the e-mail is exhibited as Ex.R20 which would also reveal the fact that this email has been forwarded by Karthick, Human Resource-Department to Ameer, Deputy Manager-HR only on 18-08-2011 at 01.24 p.m., and the same was forwarded by the said Ameer, Deputy Manager-Human Resource to General Manager Senthil on 18-08-2011 at 01.35 p.m., i.e. the resignation letter has been forwarded to the Deputy General Manager only on 18-08-2011. But, it is stated by the respondent management that the resignation sent by the petitioner Jeganathan was accepted by them and all the amount was settled on 26-07-2011. The respondent management has not stated anything how it is possible to them to accept the resignation of the petitioner and how they could settle the dues of the service benefits of the petitioner as early as on 26-07-2011 that is even prior to receipt of e-mail by Deputy Manager and General Manager on 18-08-2011. It creates suspicion over Ex.R20.

17. Furthermore, the other two e-mail copies exhibited by the respondent management as Ex.R34 and Ex.R35 alleged to have been sent by the petitioner to the respondent management. These copies of the e-mail would go to show that the said e-mails were sent from other e-mail LD of the petitioner. But, the alleged resignation letter is not sent from the said e-mail I.D. This also would create doubt whether petitioner has actually sent e-mail for his resignation to the respondent management, since the petitioner has denied the same. Furthermore, the said e-mail copies would reveal the fact that Human Resource-Department Karthick, the Deputy Manager, Ameer, GRK Reddy and one Acharyulu have got official e-mail ID in the name of the company. But, such I.D has not been given to the petitioner. Though, the respondent management has stated that the official e-mail I.D has been given to the petitioner in their counter, it is admitted by the respondent management in their evidence that no such official e-mail I.D was given to the petitioner and furthermore, the respondent management has not exhibited any other e-mail communication from the e-mail in which the resignation was alleged to have been sent by the petitioner workman to prove that the said e-mail I.D belongs to the petitioner and other exhibits Ex.R34 and Ex.R35 was also admitted by them that email was sent by the petitioner to the respondent management but, the said e-mails are sent from the separate e-mail I.D of the petitioner and furthermore, admittedly the respondent management has not sent the intimation to the petitioner regarding the acceptance of resignation through the said e-mail I.D,

18. It is a known fact that any person can create thousands of e-mail I.D without the help of anyone else and any communication can be sent by anyone else by creating new e-mail I.D even in the name of others. In such circumstances, the respondent management has silent why they have not sent any notice or letter to the petitioner workman even for their alleged acceptance of resignation of the petitioner. Admittedly, they have not communicated their acceptance and no document is exhibited before this Court to prove the fact that they have accepted voluntary resignation of the petitioner and furthermore, it is alleged by the respondent management that they have settled the dues of the petitioner but, no accounts settlement is exhibited before this Court to prove how much was given to the petitioner and what was communicated by the petitioner for the receipt of the settlement benefits and nothing is proved by the respondent management

that they have sent any communication to the petitioner after they have received a resignation letter from the petitioner and no document is exhibited before this Court to prove the fact. The statement of the petitioner that e-mail has not been sent by him and no settlement was given to him and the resignation letter is a fabricated one and his employment was refused cannot be thrown away and the respondent management has utterly failed to prove their contention that the petitioner has voluntarily resigned from service by filing appropriate documents to prove the same.

19. Furthermore, it is established by the petitioner that he has served at the respondent establishment and his service was confirmed and subsequently he was promoted as Project Executive and he has made complaint before the Inspector of Labour for unfair labour practice committed by the respondent management and subsequently, his employment was refused orally by the management and for which he has raised the industrial dispute before the Conciliation Officer and therefore, as the respondent management has failed to establish their contention by filing sufficient documents that petitioner has resigned his job voluntarily and the same was accepted by the respondent management and that they have not terminated him from service and hence, it is clear that petitioner employment was orally denied by the respondent management and hence, the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified and the petition is liable to be allowed and the petitioner is entitled for the relief as claimed by him.

20. As this Court has decided that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified, it is to be decided whether the petitioner is entitled for backwages with continuity of service as claimed by the petitioner. It is not the case of the respondent that petitioner is working in any other industry after his unemployment. The petitioner has stated that he is not working anywhere else after his termination. However, the petitioner could have served at any where else after he was removed from the respondent establishment. Considering the above circumstances, this Court decides that the petitioner is entitled for 50% backwages and other attendant benefits.

21. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner over the non-employment is justified and an Award is passed by directing the respondent to reinstate the petitioner

within one month from the date of this order and to pay 50% backwages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 21st day of September, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witnessess:

PW.1 — 04-12-2014— S. Jaganathan

PW.2 — 24-04-2017— V.G. Ganesan

List of petitioner's exhibits:

Ex.P1 — 08-10-2007 —Copy of the Appointment letter of the petitioner as Weigh Bridge Supervisor issued by the respondent.

Ex.P2 — 29-02-2008— Copy of the letter issued by the respondent company confirming the services of the petitioner.

Ex.P3 — 12-07-2008— Copy of the promotion letter of the petitioner as Executive Projects issued by the respondent.

Ex.P4 — — — Copy of the letter issued by the respondent company to the petitioner.

Ex.P5 — 15-03-2011— Copy of the letter sent by the petitioner to the Inspector, Labour Welfare, Karaikal.

Ex.P6 — 04-04-2012 —Copy of the letter sent by the petitioner to the Labour Officer, Karaikal.

Ex.P7 — 15-10-2012— Copy of the reply given by the respondent company to the Conciliation Officer (Labour), Karaikal.

Ex.P8 — 18-01-2013— Copy of the failure report submitted by the Conciliation Officer to the Government of Puducherry.

List of respondent's witness:

PW.1 — 14-03-2016— N. Kandasamy

List of respondent's exhibits:

Ex.R1 — — — Invoice - Receipts regarding issue of diesel (series) to the respondent management (5 Nos.).

Ex.R2 — April, 2009 e-mail regarding diesel on hand.

Ex.R3 — 27-05-2011 —Work allotment given by the respondent management to the petitioner.

Ex.R4 — 03-07-2008 —Copy of the e-mail sent by the petitioner.

Ex.R5 — 03-02-2011 —Copy of the Charge-sheet-cum-order of suspension given by the respondent to the petitioner.

Ex.R6 — 15-03-2011— Copy of the letter given by the petitioner to the Labour Welfare Officer.

Ex.R7 — 31-02-2011— Copy of the letter given by the petitioner to the Labour Welfare Officer.

Ex.R8 — 13-06-2013— Copy of the FIR against to the petitioner.

Ex.R9 — 04-09-2013— Copy of the letter given by the petitioner to the Municipality Office, Thirumalairayanpattinam.

Ex.R10— 11-10-2013— Copy of the letter given by the petitioner to the Municipality Office, Thirumalairayanpattinam.

Ex.R11 — 07-12-2013— Copy of the letter given by the petitioner to the Home Ministry, Department.

Ex.R12— 07-12-2013— Copy of the letter given by the petitioner to the Home Ministry, Department.

Ex.R13— — — Proceedings of conciliation.

Ex.R14— 29-02-2008— Copy of the offer letter issued to the petitioner.	Ex.R28— 08-02-2011— Copy of the Apology letter by petitioner.
Ex.R15— 01-03-2008— Copy of the Personal Data Form of Petitioner.	Ex.R29— 31-03-2011— Copy of the Apology letter by petitioner.
Ex.R16— 01-03-2008— Copy of the Appointment letter of petitioner as “Weigh Bridge Supervisor”.	Ex.R30— 16-10-2012— Copy of the Extract of defamatory publication by petitioner in face book.
Ex.R17— 01-03-2008— Copy of the Joining report of petitioner as “Weigh Bridge Supervisor”.	Ex.R31— 19-10-2012— Copy of the complaint letter of S. Senthilkumar, DGM-HR.
Ex.R18 — 01-09-2008— Copy of the Confirmation letter issued to the petitioner.	Ex.R32— 09-11-2012— Copy of the Extract of defamatory publication by petitioner in face book.
Ex.R19— 02-09-2008— Copy of the Petitioner’s Confirmation Evaluation Form.	Ex.R33— 22-01-2013— Copy of the e-mail extract with defamatory publication by petitioner in face book.
Ex.R20— 12-07-2011— Copy of the e-mail extract of Petitioner’s resignation letter.	Ex.R34— 02-03-2013— Copy of the Extract of threatening by petitioner through Email.
Ex.R21— 01-06-2011— Copy of the monthly to status report of petitioner. 31-08-2011	Ex.R35— 03-03-2013— Copy of the Extract of threatening by petitioner through e-mail.
Ex.R22— 12-07-2011— Copy of the full and final settlement statement of petitioner.	Ex.R36— 18-01-2013— Copy of the failure report issued by the Conciliation Officer.
Ex.R23— 25-10-2010— Copy of the loan application form of petitioner.	Ex.R37— 11-03-2013— Copy of the Notification issued by Government of Puducherry.
Ex.R24— 16-01-2014— Copy of the office letter by respondent to Indian Bank Branch Manager requesting statement of Accounts of Petitioner.	Ex.R38— 30-03-2015— Copy of the e-statement Account of respondent issued by Indian Bank, Karaikal.
Ex.R25— 01-04-2011— Copy of Statement of to Accounts of petitioner to 30-09-2011 issued by Indian Bank, Karaikal.	EX.R39— 10-04-2012— Copy of the order of transfer to BECL Project site given by the respondent to Mr. Ganesan.
Ex.R26— 03-08-2009— Copy of the complaint letter of D. Kumar, Transport Driver.	G. THANENDRAN, Presiding Officer, Industrial Tribunal-cum- Labour Court, Puducherry.
Ex.R27— 04-08-2009— Copy of the Apology letter by petitioner.	